

FREDERICK COUNTY PLANNING COMMISSION

April 12, 2017

TITLE: Renn Farm, Lots 1-6 and Remainder

FILE NUMBER: S-1162, AP 17108 (APFO N/A, FRO 17109)

REQUEST: **Agricultural Cluster Concept Plan Approval**
The Applicant is requesting Concept Plan approval for a 6-lot Agricultural Cluster subdivision on a 129.077-acre property.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the east side of Masser Road, opposite of Willis Lane-

TAX MAP/PARCEL: Map 48, Parcel 42

COMP. PLAN: Agricultural/Rural

ZONING: Agricultural

PLANNING REGION: Frederick

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Frey Agricultural Products, Inc.

OWNER: Frey Agricultural Products, Inc.

SURVEYOR/ENGINEER: Vanmar & Assoc.

ARCHITECT: N/A

ATTORNEY: Noel Manalo, Miles and Stockbridge P.C.

STAFF: Mike Wilkins, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Concept Plan

STAFF REPORT

ISSUE

The Applicant is requesting Concept Plan approval for a 6-lot Agricultural Cluster subdivision on a 129.077-acre property.

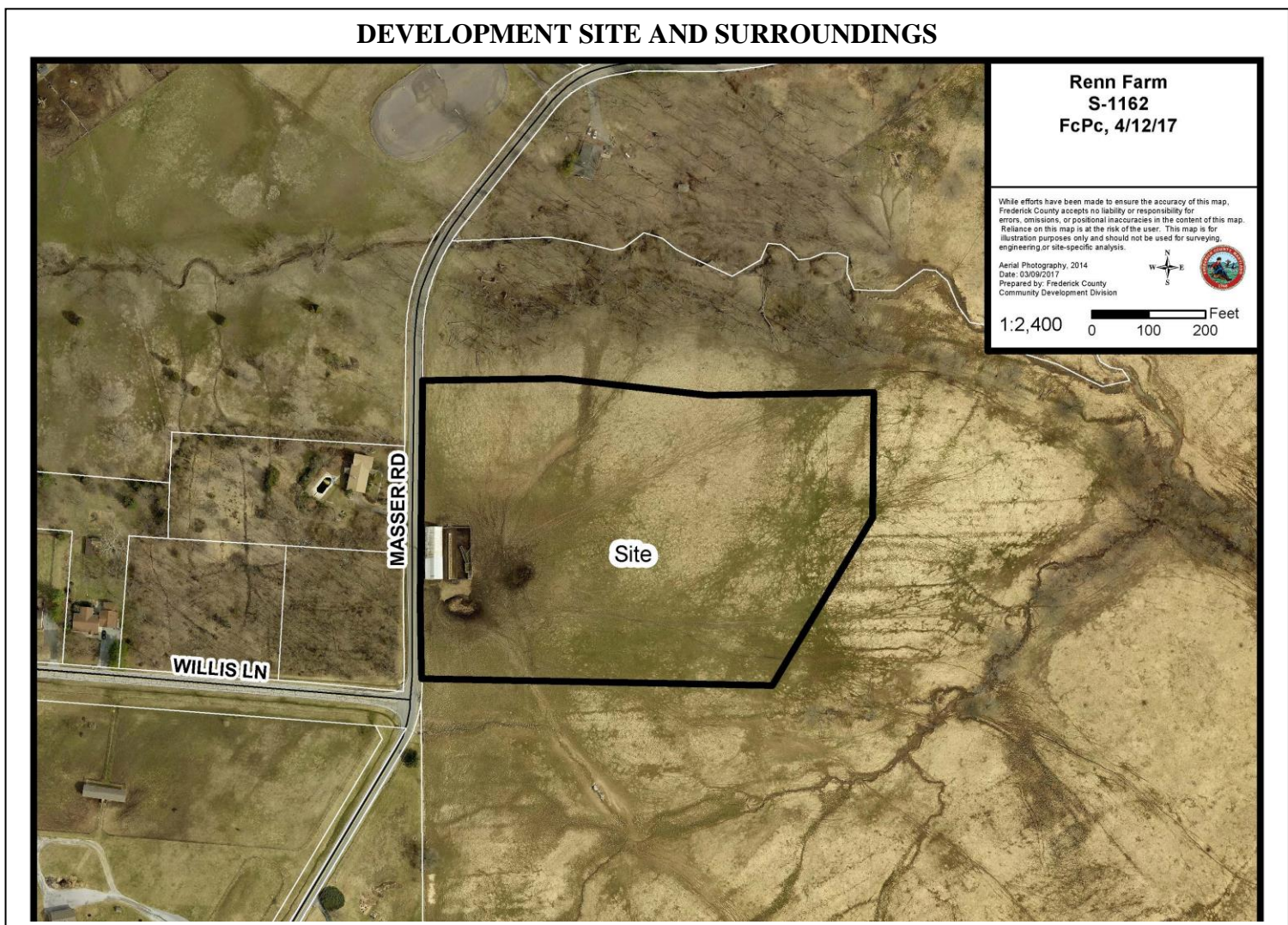
BACKGROUND

This parcel is an original agriculture tract as defined in 1-19-7.300(B) of the Zoning Ordinance, it being described in the land records as of August 18, 1976.

This parcel has been the subject of one previously approved subdivision application;

- In 2016, an addition plat was recorded that reduced the subject parcel from 129.1756 acres to its current 129.077 acre size and configuration.

Proposed lots 1-6 will create the 1st through 6th lots off the parcel since 1965 and is therefore a major subdivision.



Existing Site Characteristics

The property consists of a single parcel containing 129.077 acres. The entire parcel is utilized for farming, including the 8.92 acres proposed to be subdivided into lots. Muddy Creek, a tributary to the Monocacy River, runs along the eastern property line. FEMA floodplain, flooding soils, and wetlands are located along either side of the creek. The only forest on the parcel is a 2.74 acre forest stand that is situated along the north side of the proposed lots. An existing block building is currently located on future Lot 6 (building must be removed prior to lot recordation).

Concept Plan Layout



ANALYSIS

A. Zoning Ordinance Requirements: § 1-19-7.300. AGRICULTURAL DISTRICT.

§1-19-7.300(B): *The minimum lot size for single-family dwellings will be 40,000 square feet...*

§1-19-7.300(C)(2)(c): *Clustering Requirements. Minimum lot size, width and yard areas shall be as specified in the Agricultural District. Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres. The Planning Commission shall have the authority to grant modifications to lot sizes based on percolation and other Health Department requirements.*

All of the proposed lots meet the minimum 40,000 sq ft lot size requirement. The proposed minimum lot width (100 feet) and yard areas (40 foot front yard, 30 foot rear yard, and 10 foot side yard) will meet Agricultural District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance. The lots range in size between 1.18 acres and 1.93 acres. The 1.49 acre average lot size meets the lot size criteria under §1-19-7.300(C)(2)(c) of the Zoning Ordinance.

§1-19-7.300(C)(2)(d): *A minor subdivision of 3 lots will be permitted to be subdivided on an original tract of land 25 acres or less...On an original tract of land containing more than 25 acres, the Planning Commission may allow 1 lot in addition to those allowed on lesser tracts for each additional 50 acres or part thereof above the first 25 acres...*

This parcel consists of 129.077 acres. Under the cluster provisions, up to 6 lots can be proposed to be subdivided off the property (3 base + 3 bonus lots). All of the parcel's subdivision potential will be utilized under this application and no further subdivision will be permitted.

§1-19-7.300(C)(1): Clustering: Purpose and intent.

(a) *To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.*

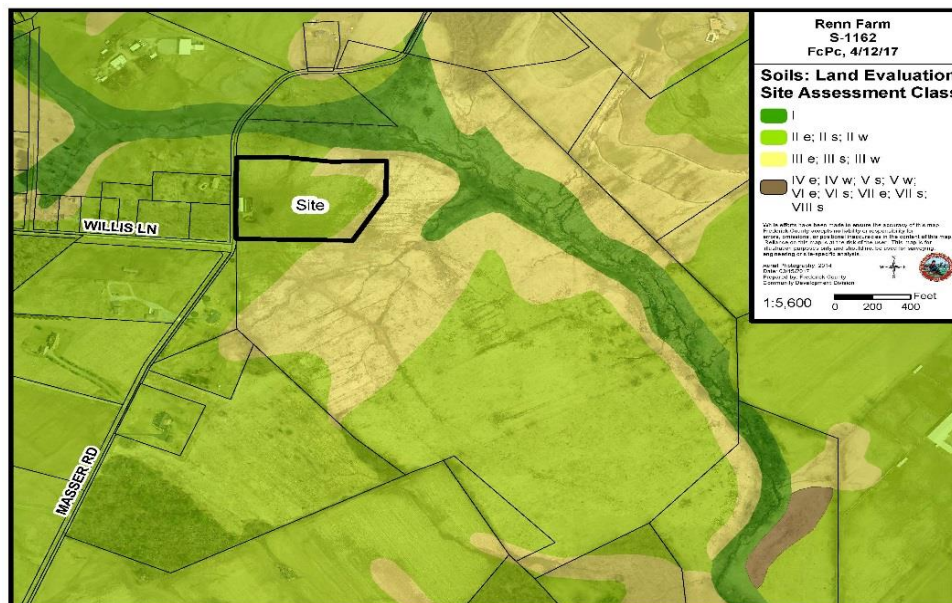
(b) *To provide for a well-planned development while minimizing the use of prime agricultural land.*

§1-19-7.300(C)(3): Procedures:

(b) *The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.*

1. *Soils. The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.*

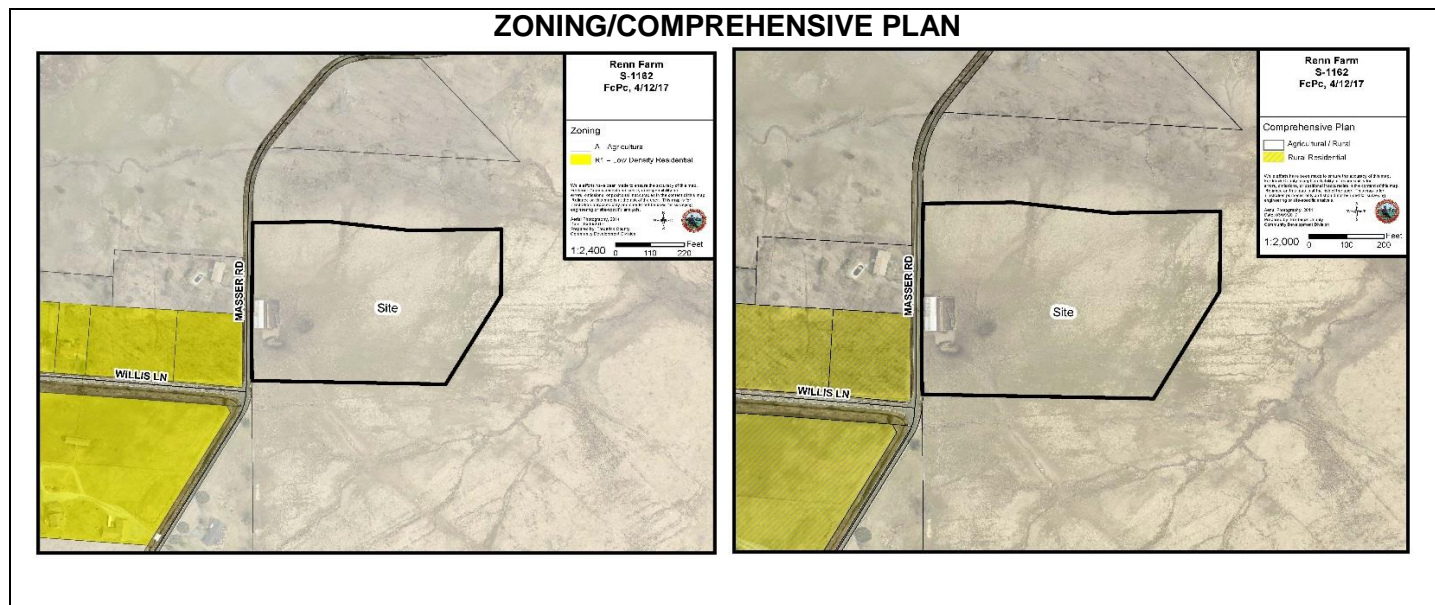
2. *Surrounding land use and zoning. The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.*



The proposed six-lot subdivision is situated in the northwest corner of the property. The parcel consists of class I, II, and III soils, which are high quality agricultural soils. The site of the proposed subdivision consists of class II soils. Due to the parcel's limited road frontage it is not feasible to design the subdivision to meet code requirements and avoid the class II soil. The remainder area contains a large area of class II and III soils, as well as class I soils along Muddy Branch, so the subdivision will not leave the remainder with undesirable farming areas.

The proposed subdivision is located opposite of Willis Lane. The properties on either side of Willis Lane are zoned R-1 Residential with a Rural Residential Comprehensive Plan designation. The proposed lots are as close as physically possible to existing residential development.

Zoning Ordinance Requirements Findings/Conclusions: The proposed subdivision will meet all Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.



A. SUBDIVISION REGULATION REQUIREMENTS

- 1. Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The subject property has an Agricultural/Rural Comprehensive Plan land use designation (see map above). The proposed land use and subdivision design complies with the Comprehensive Plan and will meet Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions and land uses. The overall parcel contains an existing stream, FEMA floodplain, flooding and wet soils, as well as wetlands. The area of the proposed subdivision does not contain unique topography, forest, or water bodies. The lots are located in wet soils and class II agricultural soils, but as previously noted the limited amount of road frontage makes avoiding these soils impracticable. The proposed

subdivision is located near R-1 residential zoning and avoids the existing environmental features and their buffers. Maryland DNR Wetlands mapping indicates a wetland area on the Remainder that is located to the rear of Lot 4 and extends westward to the western property line. Prior to final approval of the Concept Plan the Applicant shall update the plan to include the area of wetlands as depicted on the Maryland DNR Wetlands layer. The wetlands graphic shall include an area extending from the waterbody buffer adjacent to lot 4 to the west toward the western property line.

- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.*

Wet soils (PrB, RgB, PrA, BfA) are located on or within 100 feet of all six lots. A soils delineation report will be required prior to the Planning Commission's review of the Preliminary Plan.

Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b): *For major subdivisions; lots must directly access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width...*

The proposed lots will access Masser Road, which is designated a local roadway on the Comprehensive Plan and has a 20 foot wide travelway. Although the existing travelway meets the criteria for a major subdivision, the minimum right of way width of a local roadway is 50 feet. Therefore right-of-way dedication is required along the frontage of the proposed lots.

Lot access to Masser Road will be via two driveway entrances. A common driveway is proposed to serve Lots 1-5, and a single driveway is proposed to serve Lot 6. This is unusual as subdivisions of 6 or more lots are typically served by a new public street. Common driveways may only serve 5 lots. Therefore, Lot 6 must be served by a separate driveway or a public cul-de-sac street must be constructed to serve all 6 lots. The Applicant has not submitted sight distance information. This information will be required at the time of Preliminary Plan application. If there is adequate sight distance for both driveways, Staff does not object to the two-entrance proposal. The construction costs for a new public street may exceed the benefit of a 6th lot, construction of the two private driveways will avoid the necessity of the County maintaining a new public street that serves very few lots, and a 16 foot wide common driveway will utilize less agricultural land than a 50 foot wide public street right of way with a 20 foot wide paved travelway. Notes will be required on the final plat indicating that the lot owners shall be responsible for maintaining the common driveway. The common driveway must be constructed prior to lot recordation in accordance with §1-16-109(D)(8).



(Left: Masser Rd looking north from common drive. Right: Masser Rd looking south from common drive.)

4. **Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine “excellence of design” based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

Lots 2-5 are designed as panhandle lots. Should the Planning Commission find this design acceptable for the purposes of this concept plan approval, the Applicant will need to seek a formal approval of a modification at the time of Preliminary Plan application.

5. **Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service and must utilize private wells and septic systems. The percolation tests will be performed after the approval of this concept plan. Wells must be drilled prior to lot recordation.

Subdivision Regulation Requirements Findings/Conclusions: The project will meet all Subdivision Regulation requirements once all agency comments and conditions are met, subject to further review of the proposed location and methods for lot access to Masser Road, future approval of a modification to allow panhandles in a major subdivision, and the acceptance of the findings of the soils delineation report, all of which will be reviewed at the time of Preliminary Plan application.

B. OTHER APPLICABLE REGULATIONS

1. **Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. Stormwater management will be addressed with future plan submittals.
2. **APFO – Chapter 1-20:** This subdivision is subject to APFO requirements. APFO will be reviewed as part of the Preliminary Plan review process.

3. **Forest Resource Ordinance – Chapter 1-21:** The subdivision is subject to FRO. A Combined Preliminary/Final Forest Conservation Plan has been submitted and is currently under review. The area of the proposed lots does not contain forest. The Applicant proposes to meet the afforestation requirement (20% of the subdivision area) by placing a conservation easement over the 2.74 acre forest stand on the remainder and by planting new forest adjacent to the existing forest stand.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Approved. Stormwater management, road frontage improvements, common drive construction, etc. to be addressed with future plans.
Development Review Planning:	Hold. Must meet all agency and FcPc comments and conditions.
State Highway Administration (SHA):	N/A
Div. of Utilities and Solid Waste Mngt. (DUSWM):	N/A
Health Dept.	Conditionally Approved. No objection to the Agricultural cluster plan. A complete review will be provided on the preliminary plan.
Office of Life Safety	N/A
DPDR Traffic Engineering	Approved. At subdivision you will need to demonstrate safe sight distance at site access. At subdivision, you will need to transmit an APFO application.
Historic Preservation	N/A

RECOMMENDATION

If the Planning Commission finds that the proposed subdivision meets the Ag Cluster provisions of the Zoning Ordinance, then Staff has no objection to the conditional approval of the Concept Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements if the FcPc finds that the development meets the requirements of the Ag Cluster provisions, subject to further review of the proposed location and methods for lot access to Masser Road, future approval of a modification to allow panhandles in a major subdivision, and the acceptance of the findings of the soils delineation report, all of which will be reviewed at the time of Preliminary Plan application. Should the FcPc grant approval of this application (S-1162, AP 17108), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. Concept Plan approval shall become null and void at the end of one (1) year from the date of FcPc approval unless a preliminary plan is submitted for approval within this one year approval period.
3. Approval of this Concept Plan is subject to further review of the proposed wetlands, the location and methods for lot access to Masser Road, future approval of a modification to allow panhandles in a major subdivision, and the acceptance of the findings of the soils delineation report, all of which will be reviewed at the time of Preliminary Plan application.
4. There is currently an application for Agricultural (Ag) Preservation under review for this property. Entering the Ag Preservation program will nullify and void this Ag Cluster application. Executing this Ag Cluster plan (submitting final plat(s)) will nullify and void any Ag Preservation application on this property.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-1162 (AP 17108) with conditions** as listed in the staff report for the proposed Renn Farm, Lots 1-6 Agricultural Cluster concept plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.